Town of Berlin
Planning Commission Agenda
April 17, 2019 5:30 PM
Berlin Town Hall – Council Chambers

1. Call to Order
2. Agenda Adoption
3. Approval of Minutes – March 13th, 2019
4. Site Plan Approval for Burley Oak Holdings, LLC. – Burley Oak Brewery Beer Garden Expansion located at 10016 Old Ocean City Blvd.
5. Comments from the Commissioners
6. Comments from the Chairman
7. Comments from the Public
8. Adjournment
The Planning Commission Meeting for the March 13, 2019 was called to order by Chairman Chris Denny at 6:00PM. In attendance were Chris Denny, Ron Cascio, Pete Cosby, John Barrett, Newt Chandler and Phyllis Purnell. Absent from meeting was Barb Stack.

Chairman Chris Denny stated there would be a change to the agenda, adding the Election of the Chairman and Vice Chairman to the agenda. Chairman Chris Denny called for a motion to adopt the March 13, 2019 agenda. Mr. Newt Chandler made the motion to adopt the March 13, 2019 agenda. Mr. Pete Cosby seconded the motion and it was unanimously accepted by the commission. Chairman Chris Denny called for a motion to adopt the minutes from the February 13, 2019 meeting. Mr. Pete Cosby made the motion to adopt the minutes from the February 13, 2019 meeting. Mr. Newt Chandler seconded the motion to adopt the minutes from the February 13, 2019 minutes it was unanimously accepted by the commission.

Chairman Chris Denny called the first applicant Mr. Troy Purnell for Purnell Crossing North Planned Unit Development requesting a revision and Site Plan Approval. Mr. Troy Purnell stated he was there with Mr. Justin White, Developer and Mr. Mark Cropper Attorney. Mr. Troy Purnell stated they were there for Purnell Crossing North, there are two vacant parcels out there. He stated that this project had begun in 2003. He had 486 units approved with a combination of single-family homes, duplexes, multi family, apartment buildings, assisted living, and it has been modified on different occasions. He stated on the North side there are existing townhomes that are part of the Home Owners Association and Condo Association. On the left side of that was a 100 unit building for Assisted Living, the balance of that was 51 Townhouses. He stated he was requesting tonight to modify the PUD to have 126 apartments with the 27 townhouse that are there currently. Mr. Purnell stated the condominium rescheme expired a while ago. He stated what was being proposed was on the left side of Route 346, two three story apartment building with 24 units and a Club House with a pool. On the right side two three story apartment buildings 24 units and one building with 30 units. Mr. Purnell stated it was the exact same density that they are proposing. Mr. Purnell stated that with the original PUD Purnell Crossing came from Old Ocean City Blvd over to Broad Street. He stated over the last sixteen years everyone told him that it was a bad idea to have Sunlight Lane come over to Broad Street because people living in Henry’s Mill or Henry’s Green would cut through. He stated he cut that off, so it was not a thru street any more. What he wants to do is have pedestrian biking & hiking to get to this side just not vehicular access. Mr. Purnell stated as the PUD moves from Broad Street to Old Ocean City Blvd it would be provided an easement to get to Prospect Drive for biking & hiking. As far as the PUD goes it is net zero density. They started with 486 and they are now at 468 with the same density as last time.

He stated this project would be done by private builders. He said he would let them tell the Commission about the look and answer whatever questions you may have. Mr. Justin White of Live Oak Building stated they have proposed five buildings. He said as you have heard from Mr. Purnell four buildings with 24 units and one with thirty units. He stated he had spoken with the town and wanted it to tie in with the historical feel of the town. The buildings would have
brick to bring a modern approach. The plan is to have a club house with a pool. The approximate construction time would be 18 months. With a starting time around February or March of 2020. He stated as far as parking they have what is required per the town code. The parcel that has the three building has three extra parking spaces. Mr. Purnell said he has tried many times to get the assisted living but has been told there was no need for it. He stated R-4 zoning is a multi-family zone and feels it’s appropriate. He stated it’s a change, but he had spoken to the president of the association and agreed to disagree. Mr. Purnell said they would like to see it get approved, so they can get started. They have an easement that goes over to Prospect Drive. Mr. Justin White stated he would like to work with the existing townhouse owners and give them access to the clubhouse and pool with an affordable monthly fee. It also would have common area or green areas. Mr. Pete Cosby asked what the reason was for switching from townhouse to apartments. Mr. Troy Purnell stated the market, there is no market for assisted living. It seems like a big demand on the apartments like Ocean’s East right now. Mr. John Barrett asked if there has been any talk of sidewalks on Route 346 to Main. With more homes and people is there a way to get to Main Street if biking or walking. Mr. Purnell stated right now no, and it’s a state road. Mr. Troy Purnell showed the commission on the map where the project would end and stated he would provide access. He stated it would be a sidewalk more then likely on both sides from the apartment, 5ft sidewalks he showed the commission members on the map where they would run too.

Mr. Cosby asked if there would be more of an increase of people. Mr. Purnell stated it would be the same. Mr. Purnell stated he sees more of a demand for small single-family homes. Mr. Newt Chandler asked if they were condo units. Mr. Purnell replied no they are rentals apartments. There will be no section eight and no subsidized. Mr. White stated no low income they will be on the high end with a management company. They will have tile in the bathrooms he stated these are prime apartments. Mr. Cosby asked Troy in the future you may lower the density because of the demand. Mr. Purnell showed them on the map where apartments had been in the PUD since day one. Mr. Purnell stated with the R-4 zoning the apartment fit and are allowed by right. Mr. Cosby said he had heard some rumors on Ocean East such as you can hear people in their showers, dogs and noise. He asked Mr. White was he going to build something where you can hear your neighbors. Are you going to have a building that allows dogs or are you not going to allow dogs, he thought dogs could be a nuisance. Mr. White stated he did know of the Ocean East Apartments and several other ones in the area. He stated he has been involved in the multi-family for thirteen years and he did understand that. He stated as far as pets his plan is not to allow large animals. He stated there would be a strict policy for pets. Mr. Cosby comments on the rents at Oceans East. Mr. White said he believed they stated around $1400 dollars – $2000 dollars for three bedrooms. He stated his would range about the same with tile in the bathrooms. Mr. Cosby asked about the sound and insulation of the buildings. Mr. Keith Iott stated they had designed many multi-family units and condo buildings and there are ways to construct them far better then what has been done at Oceans East. He stated he was familiar with some of the problems they have over there. He stated the problems they have were easily correctable with proper planning. He stated with proper batten for the ceiling and flooring you can make a very quiet wood framed building. Discussion continued about the sound and the International Building Code.
Mr. Cosby looking at the rendering asked if this was what would be seen in Purnell Crossing North. Mr. Keith Iott stated you would see shed roofs, more neutral tones not the beach look and brick. Mr. Cosby asked about the color of the bricks. Mr. Iott stated the bricks would be in the shade of pinks & browns not looking to do a rose range maybe a little deeper than that. He stated at the bottom of the rendering you could see from the manufacturer, it had been scanned in on the picture.

Mr. John Barrett asked about the heating & air conditioner units where would they be located. Mr. Iott stated they would be fenced in on the sides and the rear of the buildings. The units that face the front would have the condensing units behind them. They would have condenser clusters six to eight units at a time fenced in. Mr. Iott stated they were at least 40 feet away from the townhouses. If they looked at it building to building they would be 33 feet away from the townhouses. He stated they are showing open space in rears yards. He stated in the previous PUD they were showing a driveway. In this new PUD they are showing it being lawn area which it was in the original PUD.

Mr. Cosby asked about their landscaping plan what type they had. Mr. Iott stated they have shown extensive landscaping in front of the buildings. The common area easements can be planted for the North parcel. On the south parcel they have provided extensive screening on this building. He showed the two 24-unit townhouses extensive landscaping. Mr. Chandler asked how much trouble it would be to move the clubhouse to the front, moving the apartment building closest to the townhouses. Mr. Iott stated they thought having the clubhouse to the front would be aesthetically pleasing to the town. Mr. Ron Cascio stated having the smaller building to the front would ease the impact. Discussion continued about the impact on the townhomes. Mr. Chandler stated that would be an impact on the people living in the townhouses. Mr. Iott stated the rear of the buildings would look like the front and they would have balconies. Mr. Barrett asked with these building what kind of shadows would they cast over the townhouse. Mr. Iott stated the shadow would be cast north the audience disagreed with that. More discussion continued he said they could do a shadow study. Mr. Barrett stated it would take a couple of hours off from the townhouses having sun.

Mr. Mark Cropper Attorney added if you would move the building north and the parking you would go from 40 feet to about 104. Mr. Iott said the building were about 35 feet in height. He showed the elevation of the buildings. Discussion of moving the building and parking he stated the apartments would have balconies over looking the pool. They would still landscape the parking. Mr. Iott discussed the easement and the buffers around the property. Mr. Cosby stated he didn’t see much landscaping near the easement. Mr. Iott stated where the tax ditch easement is located they can do screening but only according to the town of Berlin. Mr. Justin White asked about a white privacy fence. Mr. Cosby stated he was not into fences. Mr. Chandler asked what it would take to ensure that no section eight could come there, what stipulations. Mr. Mark Cropper stated you can impose on the PUD with a modification. Mr. Chandler asked Mr. White what his rent would run out there. Mr. White stated they would be comparable to Oceans East but more on the premier side. Mr. Chandler stated he wouldn’t want it where if you couldn’t get the rent you wanted you would start letting in section eight. Mr. White stated at Oceans East they have a year wait on two-bedroom apartments running $1700 dollars with a den. He stated the need is here to have luxury apartments and higher end. He said he has no intention of having
Mr. Troy Purnell stated the first time they met he stated no section eight or low income. Mr. Mark Cropper stated that the Planning Commission had more authority then any document they could prepare to impose stipulations. Mr. Cosby stated they don’t want to enforce more on landscaping if it has already been approved. Mr. Ron Cascio stated he would like to see elevations on the club house. He then asked the Planning Director Dave Engelhart about the EDUs. Mr. Engelhart stated some EDU’s must be paid for. Mr. Troy Purnell stated he has 20 EDUS and need 106 EDUs. Mr. Cascio asked about how many does the town have left. Mr. Engelhart stated he didn’t know right off the top of his head. Mr. Cascio thought that would be valuable to know before we stated handing them out. Mr. Purnell stated at 85% you must state design work, 95% you have to stated building. Mr. Cascio asked before this how many were for the assisted living. Mr. Purnell stated 100 assisted and 49 townhouses. The assisted living would have been rented of the original PUD.

Mr. Cascio stated he was concerned about the property taxes when you turn rental units and get no taxes. He stated because taxes are an issue these days. Mr. Purnell it’s what they are accessed at. He stated right now it’s looking like 19 million to build this. Mr. Mark Cropper stated if there is no market you’re not going to get anything. Mr. Chandler asked if management would be on site. Mr. White stated they would work Monday thru Friday 9 to 5. Mr. Chandler asked who you would call on the weekend if you have a problem. Mr. Justin White stated the management company was his and would be owner operated. Mr. Chancler asked would they have an emergency number posted outside.

Chairman Chris Denny asked for Public Comments:

Ms. Ruby Halligan of 509 Sunlight Lane stated she was there as an owner and the President of the Purnell Crossing Townhomes. She stated she was there to voice her objection to this development. Mr. Cosby asked if she was representing the association. She stated she was going to represent herself right now. She stated as the owner and a town tax payer she is disappointed that the Mayor & Council didn’t give them prior notice of this. Ms. Halligan stated she has lived here four years and is very disappointed on what has already been proposed. She stated the Mayor & Council cares more for the town taxes and revenue then the people. She asked how they can approve the density. Ms. Halligan stated she used to be proud to say she lived in the Coolest Small Town in America and to support the town. She stated she is not proud to live here any longer. She asked that this approval be tabled until the property owners of Purnell Crossing are given the opportunity to review the plans on how it would affect their community. She had questions on density she asked how 19 townhouses and all these occupancies in apartments would be the same. As far as safety would there be concrete fire walls in these buildings. She asked about sidewalks would they be put in as far out as Broad Street to go into town. Would they have access to Prospect Drive don’t know how long that would take. She stated no regulations in place for apartment like what they must abide by. The Maryland Association and condominium laws rules are in place to enforce that. With one owner how would you enforce the noise, dogs and she said if she’s going to be 40 feet away she didn’t want that.

Mr. Cropper asked her did she want Troy Purnell to answer these questions. Mr. Purnell stated the number of units previously. He said the underline density was an R-4 on 14.6 acres they are
proposing 106 units plus the 27 townhouses that are there now. He stated they already have approval for 149 units. Asking for 6 more then that. Ms. Halligan said her concern was about safety and what occurs in those buildings and there is nothing only one person can do. She stated she would be calling the town police all the time. She stated she didn’t want to live in a place where you must keep calling the police. She stated she needed to feel safe and know who to call. Mr. Cropper stated if it is safety you would obviously call the Berlin Police Department. What is not an emergency you would be calling the owner management of the project after 5 o’clock. Ms. Halligan stated she knew about management companies because she is a property manager and you may or may not get someone to respond. She asked if they were more concerned with people coming into town or the people that live here. She stated she pays taxes and supports the town all year long. She stated she bought into the small town and has lived in Ocean City, Ocean Pines and loves Berlin, it’s a nice small town and doesn’t have these large units in my back door. She asked Troy when Prospect Drive would be finished. Troy said he had no idea. Ms. Halligan said they can’t walk on private property. Also concerned about the shadowing and how close the buildings are with balconies on the back side that is a concern as well. Mr. Cascio asked Troy what was stopping him from putting in a biking/walking trail on the northernly end on Broad Street. Mr. Purnell stated the design. He said he has changed the design about six times. Mr. Cascio asked if he could commit to it. Mr. Purnell said he didn’t know where it would go. Ms. Halligan ended with if the Coolest Small Town is getting these huge buildings it’s very disappointing.

Mrs. Sharra Watson Sunlight Lane Unit #3 stated she was representing herself and that she was the Vice Chairman for their Association. She stated while she was driving she thought of what the impact would be on everyone with those big building. She said her daughter said the big buildings would destroy the integrity of our small town. Mrs. Watson said she moved her from Bear, Delaware. She asked them to think about how many families would be going out there and the traffic. She told the commission her home was her investment. The value of her home would go down with renters. She stated she brought her home early because she wants to retire here. Who is going to repay the homeowners for the lost values in their homes. Mr. Barrett asked her when she bought didn’t she know that apartments could go out there. Mr. Cosby said no one told you. Mrs. Watson said she felt like she had been lied to because she had not been told. She said when you do this you will be destroying her investment and that was not what she brought into.

Ms. Judy Hudson 505 Sunlight Lane Unit #2 stated they purchased there home in March 2009. They were told by Troy Purnell they would have townhouses out there. Were told they would have sidewalks don’t have them yet and the road is not finished. If you try to cut thru going to Broad Street, you have skunks in there. She agreed with what the other ladies had said.

Ms. Lisa Doyle 505 Sunlight Lane Unit # 5 stated she agreed with everything she has heard so far. She stated she had sold her home in Salisbury. She stated she knew how unsafe apartments could be. There are 27 homes on Sunlight Lane she felt safe. She said you can’t walk, she stated she didn’t want to think she had to give up her home. She asked the commission to think of the detriment this would cause. Mr. Cosby said it really is the same the assisted living is a commercial operation. Ms. Doyle thought assisted living would be more secure you may say its high end but it’s about safety, serenity issue and this would ruin it.
Mr. Mark Matulaitis 509 Sunlight Lane Unit # 5 you’re being asked to do something that was not originally planned. He asked was it being rezoned. No, Mr. Cropper explained the zoning is the same, earlier there were more townhouses planned. He stated this is just a modification of what was planned. Mr. Matulaitis agreed with everything the ladies had sad and thought the character of where they lived would change.

Mr. Robert Pagalaro 510 Sunlight Lane Unit # 1 stated he had brought in 2009 fell in love with it. He said apartments are not in line with what they have now thinks it would be a mess. He stated they all have the same concerns and they will sell out and leave.

Mr. Jayden Johnson 363 Schooner Lane thought it would be very destructive with that building use. He lives in Decatur Farms near the townhouses on Intrepid Lane. The noise from them working and looking out at buildings near you. He stated they will lose part of their back yards.

Ms. Gayle Cowles 507 Sunlight Lane Unit # 6 she stated she was an original to Purnell Crossing. She stated she was in the last unit the apartments would invade. Ms. Cowles stated that in 2008 she was told there would be more single-family homes, more townhouses and a park. She stated you can’t get a straight answer and she is very disgusted with the whole thing and misinformed. She stated you don’t live in the townhouses, no more quiet we’re not going to be the Coolest Small town.

Ms. Melissa Esham 507 Sunlight Lane Unit #5 stated she was super sad they were not getting the assisted living. She stated the buses don’t come in the development and doesn’t want children on the side of he road. Mr. Keith Iott said the cul-de- sac would allow the buses to pick up the children. Ms. Ruby Halligan stated all the buses would come in and pick up the children. The buses don’t come in the development, the developer should take that into account. Mr. Mark Cropper stated that would be up to Worcester County Board of Education. Ms. Esham stated she didn’t want anymore children there. She stated she liked the idea of them moving the building. She said she knows the noise they can have need people to check that. Ms. Esham said she would love to have a walkway. She stated she has great neighbors when her mother is out walking they always put out chairs, so she can sit down. She said she would love to have a bench in the planning of the apartments. She liked the limited amount of signage and asked they be considerate about signage. Ms. Ruby Halligan stated they have rules about signs mandated by the state. Over seen by the HOA.

Discussion continued about signage. Planning Director Dave Engelhart explained the temporary sign in the Town Code for the Commission.

Ms. Terri Arnold 508 Sunlight Lane stated she loves her unit. She asked if Sunlight Lane Road could end and another road could be made, or a wall put up. She also stated construction trucks will be going right in front of her house. She wants them to leave there street alone. She asked why not build more private homes. Mr. Cascio said they said the market is not there. She wanted to know who they were. She stated of course they are going to say that because they want to build those buildings. She asked Troy was there ever going to be a road to Broad Street. Mr. Purnell stated trying to have a non-vehicular access. She asked so we can’t keep our road so
that means we’ll have a tremendous amount of traffic going by our townhouses. Mr. Purnell said the plan is now to cut it off, so you don’t have traffic.

Mr. Matthew Bell of Sunlight Lane Unit #2 he stated originally, they were to have more townhouses and their HOA fees would have gone down. If apartments are built they wouldn’t benefit from that their HOA fees remain the same. His question was would they have access to the pool or would that be an additional fee to have access. Matthew told the commission once this gets started they won’t have a voice in it and to make sure they protect the 27 townhouses that are there. Mr. Cascio stated that Mr. White should talk to the 27 homeowners. Matthew said they only found out about this on Monday 3/11/19.

Mr. Justin White stated in 2005 the building industry crashed and has not come back yet. He said the townhome concept is not there. He said if you look back at Pulte Homes they were building, and they couldn’t fill them. They have a low-end concept. He stated he does construction for a living. Mr. Matthews said he hopes they look at the intersection at Main Street & Old Ocean City Blvd for a light in the future. Mr. Engelhart stated that the packets were posted on the town website on Friday. The Planning Commission are always the second Wednesday of the month. That packet is always online. He stated its not required we notify adjacent neighbors. Mr. Cosby asked was the condo regime designed to be bigger and would have had more members. Mr. Purnell stated everything is in and they were ready to build but the market is not there for it. Mr. Purnell the original condo sold for $390,000.00 dollars if that was the case today they would be built.

Ms. Ruby Halligan 509 Sunlight Lane stated they are under very strict guidelines. They have rules that are mandated by Federal & State of Maryland and Condominium State Laws. They do have rules on signage and what can happen with their property on the outside and common areas. They are responsible for mowing, landscaping unlike apartments one owner and no recourse. The HOA pays addition monthly money and they do have to follow the rules. Mr. Cosby stated there is a larger issue what do we want Berlin to look like. He stated he has concerns about the size and scale of the buildings. He also stated that the neighbors needed to open their eyes because there is already an approved PUD there. He said they are looking at 27 less townhouses and 27 more apartments. He stated he would prefer to see townhouses there. He said he was a little disappointed with the Oceans East project not trying to be unfair just of personal knowledge. He said what are they to do as public servants he understands people need places to stay. He said the developer needs to get with the community and discuss this. The Commission wants to see the landscaping and shadow study concerned about the Austin Acres side. Mr. Cosby stated this is not an easy thing to do. They have to struggle to made decisions on where do these big building go. He stated the Planning Commission wants to be reasonable they want construction, infill to keep it compact. Mr. Cosby said do you want Berlin to be the bedroom community of the working man where some can afford it, and some cannot where do you draw the balance. He stated he’s looking for a balance. Chairman Chris Denny called for a motion. Mr. Pete Cosby made the motion to table this until further review. Mr. Ron Cascio seconded the motion and it was unanimously accepted by the commission.

Mr. John Barrett stated he didn’t think the big buildings should be on the East Side of their townhouses. Didn’t think sandwiching the townhouse made since.
Chairman Chris Denny called the next case which was present requesting to be annexed in to town Athena Properties Inc. Mr. Peter Buas, Mrs. Mary Ann Buas and Mr. Spiro Buas came forward. Mr. Peter Buas stated he had given Mr. Dave Engelhart a copy of two parcels to be annexed in to Berlin. He stated it is five lots that total seven acres. He stated the house on the corner is already in town limits. They are asking for parcel 49 and 417 they have the same owners. In April of 2000 they annexed the North end to get water and sewer to the State Police Barracks. He stated the town sent letters to property owner to get easements, so they could get water and sewer to the Police Barracks. He stated that in Exhibit 3 it showed the properties were contiguous, so they could be served with water & sewer. Mr. Buas stated that in the Towns Comprehensive Plan for Route 818 it was considered a corridor into town. Mr. Buas stated that the comp plan had already considered this because it was in the growth area. He stated the town had already considered the growth when they came up with Growth Area Three. He stated the parcels are already zoned C-2 in the county. He told the commission if the Mayor & Council agrees to the annexation they will be requesting B-2 Shopping District for zoning. This is equivalent to the C-2 zoning in the county. Mr. Buas stated that the annexation shall be added to the charter, taxes and services. The parcels are contiguous and in the growth area, there is water and sewer.

Mr. Pete Cosby stated that he didn’t think route 818 was a proper road. He said he didn’t want it like Route 589 in Ocean Pines. He stated Route 818 is a main access to town and they need to have turning lanes. Mr. Spiro Buas agreed he said he would love to see State Highway reduce the speed. Planning Director Dave Engelhart read a letter into the record which will be attached to the packet about annexation that had been dropped off by Mr. Jeff Smith of 101 Davis Court, Berlin MD. The Town Administrator Laura Allen wanted clarity on the finances. She asked the commission to keep in mind the assessment would be down. The state establishes the assessed value. The ready to serves would be approximately $5000.00 dollars and stormwater which we can’t calculate at this time also the EDU’s would be $150,174.00 dollars.

Mr. Cascio stated he had no problem with the annexation or what Mr. Cosby had said or with who wrote the letter. Mr. Cascio stated it’s a challenge to deal with growth pains very difficult for the people who live here and pay taxes. He stated they must be careful of where they annex. Mr. Cosby stated another annexation is not appropriate at this time because of the infrastructure they should annex before the infrastructure or after the infrastructure and the road. He said he does not think they know how they want it.

Mrs. Carol Rose stated she was there for the annexation. She said she has known Mr. & Mrs. Buas for a long time and thought the commission needed to do the annexation. Mrs. Rose told Mr. Cosby that she works for Senator Carozza if he had issues with the road to call her and she would get him or whom ever to the right people Maryland Department of Transportation. Mr. Cosby said well you have heard it. Mrs. Rose said she would take care of it soon as she gets home. Chairman Denny close the public hearing. Chairman Denny called for a motion. Mr. Newt Chandler made the motion to recommend annexation as submitted. Mr. John Barrett seconded the motion and it was unanimously accepted by the commission. All in favor.
Chairman Denny called for election of Chairman & Vice Chairman. Mr. Newt Chandler nominated Mr. Chris Denny to remain seated as Chairman. Mr. Cosby nominated Mr. Newt Chandler for Vice Chairman. Mr. John Barrett seconded the motion. All in favor.

Mrs. Laura Allen asked the commission how they wanted their packets received. She asked if they wanted to flexible. Mr. Chandler stated that Dave gives them all they need in the packets. Mr. Chandler stated in his 25 years that has never happened. Mr. Cascio said that was the first time it had happen to him. Mr. Cascio thanked Mrs. Laura Allen for her clarifications during the meeting for the finances. Mr. Cosby thought they could be flexible and for the applicant to be as thorough as possible to help their case. Mr. Engelhart stated they can't just show up with it.

Meeting Adjourned 9:08PM

Respectfully Submitted,

Carolyn Duffy